

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 764

Introduced by Assembly Member Swanson
(Coauthor: Assembly Member Donnelly)

February 17, 2011

An act to add and repeal Article 10 (commencing with Section 18809) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 764, as amended, Swanson. Personal income taxes: voluntary contributions: Victim-Witness Assistance Fund.

Existing law relating to the administration of personal income taxes authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would allow an individual taxpayer to designate on the tax return, that a specified amount in excess of the tax liability be transferred to the Victim-Witness Assistance Fund.

This bill would provide that all moneys contributed to the fund, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the State Department of Social Services for community-based organizations that serve minor victims of human trafficking.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier calendar year, if the Franchise Tax Board

estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount, as specified, for subsequent taxable years.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10 (commencing with Section 18809) is
2 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and
3 Taxation Code, to read:

4
5 Article 10. Victim-Witness Assistance Fund
6

7 18809. (a) Any individual may designate on the tax return that
8 a contribution in excess of the tax liability, if any, be made to the
9 Victim-Witness Assistance Fund established by Section 13835.7
10 of the Penal Code.

11 (b) The contributions shall be in full dollar amounts and may
12 be made individually by each signatory on a joint return.

13 (c) A designation under subdivision (a) shall be made for any
14 taxable year on the original return for that taxable year, and once
15 made, shall be irrevocable. In the event that ~~payment~~ *payments*
16 and credits reported on the return, together with any other credits
17 associated with the individual's account, do not exceed the
18 individual's tax liability, the return shall be treated as though no
19 designation has been made.

20 (d) If an individual designates a contribution to more than one
21 account or fund listed on the tax return, and the amount available
22 is insufficient to satisfy the total amount designated, the
23 contribution shall be allocated among the designees on a pro rata
24 basis.

25 (e) When another voluntary contribution designation is removed
26 from the tax return, the Franchise Tax Board shall revise the form
27 of the return to include a space labeled "Victim-Witness Assistance
28 Fund" to allow for the designation permitted under subdivision
29 (a). The form shall also include in the instructions information that
30 the contribution may be in the amount of one dollar (\$1) or more
31 and that ~~100 percent of~~ the contribution shall be used to fund
32 community-based organizations that serve minor victims of human

1 trafficking, in accordance with the selection process provided in
2 subdivision (b) of Section 13837 of the Penal Code.

3 (f) A deduction shall be allowed under Article 6 (commencing
4 with Section 17201) of Chapter 3 of Part 10 for any contribution
5 made pursuant to subdivision (a).

6 *18809.1. The Franchise Tax Board shall notify the Controller*
7 *of both the amount of money paid by taxpayers in excess of their*
8 *tax liability and the amount of refund money that taxpayers have*
9 *designated pursuant to Section 18809 to be transferred to the*
10 *Victim-Witness Assistance Fund. The Controller shall transfer*
11 *from the Personal Income Tax Fund to the Victim-Witness*
12 *Assistance Fund an amount not in excess of the sum of the amounts*
13 *designated by individuals pursuant to Section 18809 for payment*
14 *into that fund.*

15 ~~18809.1.~~

16 *18809.2.* All money transferred to the Victim-Witness
17 Assistance Fund, upon appropriation by the Legislature, shall be
18 allocated as follows:

19 (a) To the Franchise Tax Board and the Controller only for
20 reimbursement of all costs incurred by the Franchise Tax Board
21 and the Controller in connection with their duties under this article.

22 (b) To community-based organizations that serve minor victims
23 of human trafficking. The money in the Victim-Witness Assistance
24 Fund shall be allocated to community-based organizations in
25 accordance with the selection process provided in subdivision (b)
26 of Section 13837 of the Penal Code.

27 ~~18809.2.~~

28 *18809.3.* (a) Except as otherwise provided in subdivision (b),
29 this article shall remain in effect only until January 1 of the fifth
30 taxable year following the first appearance of the Victim-Witness
31 Assistance Fund on the personal income tax return, and as of that
32 date is repealed, unless a later enacted statute, that is enacted before
33 the applicable date, deletes or extends that date.

34 (b) (1) By September 1 of the second calendar year and each
35 subsequent calendar year that the Victim-Witness Assistance Fund
36 appears on the tax return, the Franchise Tax Board shall do all of
37 the following:

38 (A) Determine the minimum contribution amount required to
39 be received during the next calendar year for the fund to appear

1 on the tax return for the taxable year that includes that next calendar
2 year.

3 (B) Provide written notification to the State Department of
4 Social Services of the amount determined in subparagraph (A).

5 (C) Determine whether the amount of contributions estimated
6 to be received during the calendar year will equal or exceed the
7 minimum contribution amount determined by the Franchise Tax
8 Board for the calendar year pursuant to subparagraph (A). The
9 Franchise Tax Board shall estimate the amount of contributions
10 to be received by using the actual amounts received and an estimate
11 of the contributions that will be received by the end of that calendar
12 year.

13 (2) If the Franchise Tax Board determines that the amount of
14 the contributions estimated to be received during a calendar year
15 will not at least equal the minimum contribution amount for the
16 calendar year, this article is repealed with respect to taxable years
17 beginning on or after January 1 of that calendar year.

18 (3) For purposes of this section, the minimum contribution
19 amount for a calendar year means two hundred fifty thousand
20 dollars (\$250,000) for the second calendar year after the first
21 appearance of the Victim-Witness Assistance Fund on the personal
22 income tax return or the adjusted minimum contribution amount
23 adjusted pursuant to subdivision (c).

24 (c) For each calendar year, beginning with the third calendar
25 year after the first appearance of the Victim-Witness Assistance
26 Fund on the personal income tax return, the Franchise Tax Board
27 shall adjust, on or before September 1 of that calendar year, the
28 minimum contribution amount specified in subdivision (b) as
29 follows:

30 (1) The minimum estimated contribution amount for the calendar
31 year shall be an amount equal to the product of the minimum
32 estimated contribution amount for the calendar year multiplied by
33 the inflation factor adjustment as specified in subparagraph (A) of
34 paragraph (2) of subdivision (h) of Section 17041, rounded off to
35 the nearest dollar.

36 (2) The inflation factor adjustment used for the calendar year
37 shall be based on the figures for the percentage change in the
38 California Consumer Price Index for all items received on or before
39 August 1 of the calendar year pursuant to paragraph (1) of
40 subdivision (h) of Section 17041.

1 (d) Notwithstanding the repeal of this article, any contribution
2 amounts designated pursuant to this article prior to its repeal shall
3 continue to be transferred and disbursed in accordance with this
4 article as in effect immediately prior to that repeal.

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